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Dated: September 6, 2005 Signature: Bryan J. Lempia
(Bryan J. Lempia)

Docket No.: 29939/38600A
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Brian R. Pleiman et al.

Application No.: 10/627,434

Confirmation No.: 2345

Filed: July 25, 2003

Art Unit: 3634

For: ANTI-TIP RACK FOR LONG HANDLED
TOOLS

Examiner: Hugh B. Thompson

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PRIORITY CLAIM UNDER 35 U.S.C. §119(e)

MS Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This paper is a petition for acceptance of an unintentionally delayed claim under 35 U.S.C. §119(e) for the priority benefit of a prior-filed provisional patent application. In accordance with 37 C.F.R. §1.78(a)(5) and (a)(6), this petition is accompanied by the reference required by 35 U.S.C. §119(e), the surcharge set forth in §1.17(t), and the required statement.

With respect to §1.78(6)(i), the reference is provided herewith in the form of an Application Data Sheet. The Data Sheet notes the prior-filed Provisional Application Serial Number 60/398,752, which was filed on July 26, 2002. Regarding §1.78(6)(ii) a check in the amount of \$1370, as required by §1.17(t), is enclosed with this petition.

With regard to §1.78(6)(iii), the applicants' undersigned representative states that the entire delay between the date the claim was due, November 26, 2002 under paragraph (a)(5)(ii), and this date upon which the claim is filed, was unintentional. As proof that the delay was unintentional, the Director's attention is drawn to the patent application transmittal

that was submitted with the originally filed application. The transmittal notes at Paragraph 1, Type of Application, that the application was filed and based on "co-pending U.S. Provisional Application Serial Number 60/398,752, filed July 26, 2002." The Director's attention is also directed to the Declaration of the joint inventors that was submitted on May 11, 2004 in response to a missing parts notice. Page 1 of the Declaration properly notes the correct priority claim under the section identifying claims for benefit under 35 U.S.C. §119(e). Further, the original filing receipt and updated filing receipt both indicate the domestic priority claim as claimed by the applicant upon filing.

The applicant's respectfully request that this petition be granted and that the priority claim under 35 U.S.C. §119(e) be accepted.

In the event that the Office deems all requirements under §1.78(a) to have been previously met for proper acceptance of the priority claim, the applicants' respectfully request a refund of the fee submitted herewith. The refund may be applied to Deposit Account No. 13-2855 of the undersign's firm. Any additional fee required for this petition may also be debited from such deposit account.

Dated: September 6, 2005

Respectfully submitted,

By


Bryan J. Lempia

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